

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

Angela Herndon Hanna d/b/a Angela Hanna)
Photography,)

Plaintiff,)

v.)

C/A NUMBER: _____

Douglas “Doug” Gray; The Marshall)

Tucker Band, Inc.; Marshall Tucker)

Entertainment, Inc., d/b/a Ramblin Records;)

Ron Rainey Management, Inc.; Absolute)

Publicity, Inc.; City of Florence; Greater)

Greer Chamber of Commerce; Town of Fort)

Mill; Miller Communications; American)

Artists Corp.; Native American Heritage)

Association, d/b/a Rock Legends II Cruise,)

Defendants.)

COMPLAINT

(Jury Trial Demanded)

Plaintiff, Angela Herndon Hanna d/b/a Angela Hanna Photography (“Plaintiff” or “Hanna”), by and through her undersigned attorneys, makes this Complaint against Defendants, Douglas “Doug” Gray (“Gray”); The Marshall Tucker Band, Inc. (“The Band”); Marshall Tucker Entertainment, Inc., d/b/a Ramblin Records (“Ramblin Records”); Ron Rainey Management, Inc. (“Rainey”); Absolute Publicity, Inc. (“Absolute”); City of Florence (“Florence”); Greater Greer Chamber of Commerce (“Greer”); Town of Fort Mill (“Fort Mill”); Miller Communications (“Miller”); American Artists Corp. (“America Artists”); Native American Heritage Association, d/b/a Rock Legends II Cruise (“Rock Legends”), and states as follows:

INTRODUCTION

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*). This action

arises out of Defendants' wrongful use, distribution, sale, and/or misappropriation of copyrighted work owned by Plaintiff, breach of contract, conversion, conspiracy, and unfair trade practices.

2. This case arises out of Defendants' collective, joint, and common acts in connection with the use, distribution, transfer, and/or sale of copyrighted work owned by Plaintiff, without her express permission for such use, distribution, transfer, and/or sale. Defendants are attempting to and have in fact profited from their wrongful use of Plaintiff's copyright.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (copyright), based on the presence of several federal questions, including but not limited to causes of action arising under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

4. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the subject matter of Plaintiff's additional causes of action asserted against Defendants in this action as these claims are so related to the federal claim that they form part of the same case or controversy.

5. This Court has personal jurisdiction over Defendants, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that one or more of the Defendants are citizens of this jurisdiction and/or are subject to personal jurisdiction in this District by virtue of Defendants' acts or omissions, including their transacting, doing, and soliciting business in this District.

PARTIES

6. Plaintiff Angela Hanna is a professional photographer who owns and operates a photography business, Angela Hanna Photography, in Cheraw, South Carolina. In or around early September 2012, Hanna contracted with Defendants Doug Gray and The Marshall Tucker Band to take “test” or “proof” photographs of The Marshall Tucker Band in South Carolina over a two-day period. This test shoot was done for the express purpose of enabling Gray and/or The Band to determine whether to purchase or license photographs from Hanna for autograph cards to be distributed for free to The Band’s fans. The proof photos created by the test shoot were never intended to be sold or used for commercial purposes. On February 8, 2013, Hanna registered two of the more than three hundred test photo shoot photographs with the United States Copyright Office. *See* **Exhibit 1** and **Exhibit 2**. On March 10, 2013, Hanna registered five additional photographs taken during the test shoot. *See* **Exhibits 3, 4, 5, 6, and 7**.

7. Defendant Douglas “Doug” Gray (“Gray”) is a world famous and immensely popular performing artist, singer, musician, composer, and producer. He is the only original band member of The Marshall Tucker Band, Inc. (“The Band”), an American southern rock and country rock band which primarily plays music in the styles of rock, rhythm and blues, jazz, country, and gospel. Upon information and belief, Gray is the sole owner and/or shareholder of the entities The Band and Marshall Tucker Entertainment, Inc. d/b/a Ramblin Records (“Ramblin Records”). Upon information and belief, Defendant Gray is a citizen and resident of Spartanburg, South Carolina doing business under the name The Marshall Tucker Band, Inc. and/or Marshall Tucker Entertainment, d/b/a Ramblin Records in the State of South Carolina.

8. Defendant The Marshall Tucker Band, Inc. (“The Band”) is a corporation duly organized and existing under the laws of the State of South Carolina. The Band is a world

famous American southern rock and country rock musical group that is primarily known for helping establish the southern rock genre in the early 1970s with their songs: “Can’t You See” (1973), “This Ol’ Cowboy” (1975), and “Searchin’ for a Rainbow” (1976), among others, which topped the American Billboard Charts and international charts from the 1970s until the 1990s. In or around October of 2012, UltimateClassicRock.com recognized The Band’s song “Can’t You See” as the best Southern Rock song of all time. *See* <http://ultimateclassicrock.com/top-southern-rock-songs/>. The Band has recorded and performed continuously under various lineups in the United States and internationally for more than forty years. Upon information and belief, The Band’s principal place of business is located in Spartanburg, South Carolina.

9. Defendant Marshall Tucker Entertainment, d/b/a Ramblin Records (“Ramblin Records”) is a California Corporation doing a substantial amount of business in South Carolina with Doug Gray and The Band. Ron Rainey and Doug Gray founded Ramblin Records in or around 1997, and currently Ramblin Records controls the entire Marshall Tucker Band catalog of 22 studio recordings, two live CDs, one DVD, and two compilations. Upon information and belief, many more releases are planned by The Band, including new recordings, as well as catalog releases, both audio and video, from The Band’s vast archives.

10. Defendant Ron Rainey Management, Inc. (“Rainey”) is a California corporation, which manages musicians, performers, and bands throughout the United States. Rainey was established in 1981 with initial clients Rita Coolidge, John Kay & Steppenwolf, and Tom Scott. The Band signed on as a client in 1991. Rainey’s business includes “secur[ing] and servic[ing] record deals for [its clients] as well as arranging and administering countless tours and special event appearances in the United States and around the world.” *See* Ron Rainey Management website at http://ronrainey.com/bio_rainey.html (accessed on May 1, 2013). Upon information

and belief, Rainey is performing a substantial amount of business activities, including entering into contracts, in South Carolina.

11. Defendant American Artists Corporation (“American Artists”) is a California corporation established in 1996 as an exclusive music booking agency which provides tour support services to bands, performers, and musicians in the United States and abroad. American Artists provides support services for tour promoters, including providing promotional news, photographs, stories, and information for immediate release. One of American Artists’ primary clients is The Band. Upon information and belief, American Artists is performing a substantial amount of business activities, including entering into contracts, in South Carolina.

12. Defendant Absolute Publicity, Inc. (“Absolute”) is a Tennessee corporation providing publicity services to musicians, performers, and bands throughout the United States, including South Carolina. Absolute’s services include: artist development; creating tour press, album promotion, press kit development, and media campaign planning and implementation; preparing and distributing press releases, news briefs and photographs; soliciting artist related features in local, regional, national, and international media; coordinating interviews; providing tour support; providing artist image development in trade and consumer media; and consulting services. One of Absolute’s primary clients is The Band. Upon information and belief, Absolute Publicity is responsible for selling, transferring, and/or distributing one or more copyrighted photographs owned by Hanna to various local, regional, and international media outlets; concert venues for promotional use; and/or other unknown person(s) and entity(ies) that have wrongfully used Hanna’s photographs of Gray and The Band. Upon information and belief, Absolute is performing a substantial amount of business activities, including entering into contracts, in South Carolina

13. Defendant Native American Heritage Association, d/b/a Rock Legends II Cruise (“Rock Legends”) is a South Dakota non-profit which provided cruise services aboard the Liberty of the Seas from Royal Caribbean from January 10 to January 14, 2013. The main attraction of the cruise was the multiple performances by “rock legends” aboard the cruise, including The Band. Rock Legends actively promoted The Band by website promotions, email blasts and, upon information and belief, flyers, brochures, postcards, newsletters, and letter mailings throughout the United States, including South Carolina. Upon information and belief Gray and Rainey have a financial and/or corporate interest in Rock Legends and stand to reap significant profits from Rock Legends’ financial ventures. Upon information and belief, American Artists serves as the booking agent for Rock Legends.

14. Defendant City of Florence (“Florence”) and County of Florence (“Florence County”) are governmental subdivisions which own and operate the Florence Civic Center through a joint venture. The Florence Civic Center is a convention, entertainment and exhibition facility located in Florence, South Carolina. The Florence Civic Center provides more than 50,000 square feet of multipurpose space. Florence and Florence County’s joint venture hired The Charlie Daniels Band and The Band on or around April 26, 2013 to perform at the Florence Civic Center. Upon information and belief, Florence and Florence County, and/or the joint venture, by and through their agents, employees, and/or persons working on their behalf have sold, distributed, transferred, and/or used Hanna’s copyrighted photographs of The Band and Gray to promote The Band’s concert. Upon information and belief, Florence, Florence County, and/or the joint venture, have profited from the wrongful misappropriation of Hanna’s copyrighted photographs including by ticket sales to the concert, vendor sales during the concert, and merchandise using the wrongfully misappropriated photographs.

15. Defendant Greater Greer Chamber of Commerce (“Greer”) is a non-profit doing business in Greer, South Carolina. Upon information and belief, Greer entered into contracts with Gray, The Band, Rainey, and/or Absolute in order for The Band to perform at The 2013 Greer Family Festival. Upon information and belief, Greer, by and through its agents, employees, and/or persons working on its behalf, have sold, distributed, transferred, and/or used Hanna’s copyrighted photographs of The Band and Gray to promote The Band’s performance at the Greer Family Fest.

16. Defendant Town of Fort Mill (“Fort Mill”) is a municipality located in South Carolina. Upon information and belief, Fort Mill entered into contracts with Gray, The Band, Rainey, and/or Absolute in order for The Band to perform at The South Carolina Strawberry Festival on or about May 3 and May 4, 2013. Upon information and belief, Fort Mill, by and through its agents, employees, and/or persons working on its behalf, have sold, distributed, transferred, and/or used Hanna’s copyrighted photographs of The Band and Gray to promote The Band’s performance.

17. Upon information and belief, Defendant Miller Communications is a broadcasting and media production company doing business in Timmonsville, South Carolina. In or around early 2013, Defendant Miller Communications produced a promotional video featuring The Band and The Charlie Daniels Band on behalf of the Florence Civic Center. The promotional video produced by Defendant Miller Communications used one or more of Hanna’s copyrighted photographs. The promotional video was broadcast by a local CBS affiliate, WBTW TV 13, in the Pee Dee region of South Carolina, including Florence, Myrtle Beach, and Georgetown. Upon information and belief, this promotional video was played for more than a month before The Band’s performance at the Florence Civic Center on or around Friday, April 26, 2013.

STATEMENT OF FACTS

18. On September 21, 2012, Defendants Doug Gray (“Gray”) and The Band hired Hanna to take “proof” photographs of Gray and The Band. *See* Invoice attached as **Exhibit 8**.

19. Hanna took more than three hundred photographs during the test shoot. Hanna exercised creative direction with regard to the photographs, including, lighting, setting, positioning of Band members, etc.

20. The contract price for the test shoot was \$1,780.00. *See id.* Hanna applied a \$750.00 credit to the contract price for a previous, unrelated transaction between the parties, wherein Gray purchased a camera lens from Hanna for personal use.

21. Gray and The Band paid half of the contract price in advance of the photo shoot on or about September 11, 2012. *See id.*

22. Gray and The Band paid the second half of the contract price on or about September 22, 2012 in cash. *See* Cash Receipt attached hereto as **Exhibit 9**.

23. The Invoice explicitly provided: “All Clients Please Note: Invoice/Receipt does NOT reflect other fees associated with sessions unless indicated. Included but not limited to: Usage Rights to photos (written release), buy outs, products, or outsourced editing. These fees can be negotiated separately and at additional charges.” *See* **Exhibit 8**.

24. It was expressly understood by Gray, The Band, and Hanna that the photographs were taken during a “test shoot” only and were not going to be sold, transferred, distributed, licensed or given to Gray or The Band.

25. On September 14, 2012, Hanna wrote Gray and The Band enclosing two CDs with proofs from The Band’s “test shoot.” *See* Letter to Gray, September 24, 2013, attached hereto as **Exhibit 10**. The photographs were sent to Gray for his review. *Id.* Specifically, Hanna

stated: “Please let me know your thoughts-likes and dislikes-*as we work towards any final selections that you may choose to show your team.*” *Id.* (emphasis added). The CD contained approximately ninety-five (95) proof quality photographs as well as a link to a limited usage website (the “gallery”) which displayed more than one hundred and five (105) photographs that were taken by Hanna during the test shoot.

26. The photographs available in the gallery were only available for viewing and so that Gray and The Band could determine whether they wanted to purchase or license the photographs from Hanna. Gray and The Band never agreed to purchase or license the photographs.

27. Hanna never published the photographs in that she distributed the proof photos to Gray and The Band members only, by providing them with a limited website address showing the proof photos. The photographs were not intended by Hanna to be transferred, licensed, rented, leased, or loaned to members of the public or transferred, licensed rented, leased, or loaned by Gray and/or The Band to members of the public. The photographs were transmitted from Hanna to Gray and The Band, a select group of individuals and entities, for an expressed, limited purpose, and without the right of diffusion, reproduction, distribution, or sale.

28. In or around October 2012, Gray and The Band improperly downloaded and saved at least two photographs from the gallery and distributed, transferred, or sold same to Defendants Ramblin, Rainey, Absolute, and others. *See* Photographs attached hereto as **Exhibits 1 and 2.**

29. As early as October of 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna’s photograph identified as **Exhibit 1** to the entity owning *The York Dispatch*, an online newspaper promoting an interview with Doug Gray

and The Band. *See* YorkDispatch.com website at http://www.yorkdispatch.com/ci_22000854. Defendants published the photograph without Hanna's permission or authorization. The photograph remains available for public viewing to this date. *See* YorkDispatch.com Website (last accessed May 13, 2013), attached hereto as **Exhibit 11**.

30. Upon information and belief, Gray, The Band, Rainey, and Absolute used, distributed, transferred, and/or sold photographs, including **Exhibits 1 and 2**, owned by Hanna to the remaining Defendants, including Florence Civic Center, Miller Communications, among others not named as defendants to this action.

31. From October 2012 to early 2013, Gray and The Band wrongfully used Hanna's photograph identified as **Exhibit 1** as the primary photograph in their banner on their official website at marshalltucker.com/. *See* Website Printout (2013-02-21) attached hereto as **Exhibit 12**. Upon information and belief, the photographs were removed from The Band's Official Webpage on or about February 21, 2013.

32. Moreover, from October 2012 to early 2013, Gray and The Band wrongfully sold for commercial purposes Hanna's photographs identified as **Exhibit 1 and 2** on their Merchandise Page at www.marshalltucker.com/ for \$5.00 each.

33. No photo credit was given to Hanna for any of the photographs used on The Band's webpage or merchandise page.

34. In or around October 2012, Rock Legends began promoting and advertising its Rock Legends II Cruise, featuring The Band as a performing musical group on the cruise. Rock Legends posted Hanna's photograph identified as **Exhibit 1** without her permission or authorization. The photograph was posted on <http://rocklegendscruise.com/artists/the-marshall-tucker-band/> and remains available for public viewing to date. *See* Rock Legends

Webpage (last accessed May 13, 2013) attached hereto as **Exhibit 13**. Upon information and belief, Defendants Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold the copyrighted photograph to Rock Legends.

35. In or around October 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning www.CarolinaTix.com, a website promoting The Band's performance at the Neighborhood Theatre in Charlotte, North Carolina. See CarolinaTix.org website at <http://www.carolinatix.org/default.asp?tix=59&objId=3633> (last accessed March 21, 2013). Defendants published the photograph without Hanna's permission or authorization. The photograph remained available for public viewing until at least March 21, 2013. See CarolinaTix.com Website (last accessed March 21, 2013), attached hereto as **Exhibit 14**.

36. On or about October 3, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Fox News Network, LLC, a world famous news and entertainment source, which used Hanna's Hanna to promote the UltimateClassicRock.com's determination that "Can't You See" by The Band was selected as "The best Southern rock song of all time." A photograph owned by Hanna was used on the Fox News Network, LLC's website at <http://www.foxnews.com/entertainment/2012/10/03/and-best-southern-rock-song-all-time-is-cant-see/> without Hanna's express authorization. The photograph remains available for public viewing to date. See FoxNews.com Website (last accessed May 13, 2013), attached hereto as **Exhibit 15**.

37. On or about October 9, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** on Absolute's website at <http://www.mynewsletterbuilder.com/email/newsletter/>

[1411495908/](#). The photograph was published without Hanna's authorization or consent and remains available for public viewing to date. *See* Absolute Webpage re Vice Presidential Debate (last accessed May 13, 2013), attached hereto as **Exhibit 16**.

38. On or about October 11, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to Town Square Media, LLC, the entity owning and/or operating UltimateClassicRock.com, an entertainment and news website promoting musicians and bands classified as "classic rock" artists. An article was published on the website that announced The Band's performance at the 2012 Vice Presidential Debate in Danville, Kentucky *See* UltimateClassicRock.com website at <http://ultimateclassicrock.com/marshall-tucker-band-2012-vice-presidential-debate/> (last accessed May 14, 2013). In conjunction with the publication of this article, Defendants published a photograph owned by Hanna without her permission or authorization. The photograph remains available for public viewing to date. *See* UltimateClassicRock.com website, attached hereto as **Exhibit 17**.

39. On or about October 18, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Clarity Digital Group, LLC, d/b/a Examiner.com, a website promoting the Marshall Tucker Band's new releases of The Band's Solo CD entitled "Soul of the South." An article was later published on the website that was entitled "Doug Gray of Marshall Tucker Releases Solo CD – Soul of the South – CD Review (Photos)." *See* Examiner.com website at <http://www.examiner.com/review/doug-gray-of-marshall-tucker-releases-solo-cd-soul-of-the-south-cd-review> (last accessed May 13, 2013). In conjunction with the publication of this article, Defendants published a photograph owned by Hanna without her permission or authorization.

The photograph remains available for public viewing to date. *See* Examiner.com website, attached hereto as **Exhibit 18**.

40. Upon information and belief, as early as October 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning <http://www.albisguetli.ch/>, an international website promoting The Band's performance at the 2013 International Country Music Festival on January 3, 2013 and February 3, 2013. *See* Albisguetli Website at <http://www.albisguetli-tickets.ch/index.php?section=shop&catId=27> (last accessed March 21, 2013), attached hereto as **Exhibit 19**.

41. Upon information and belief, as early as October 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to Boyd Gaming Corporation and The Orleans Casino ("the Orleans") doing business in Las Vegas, Nevada, in order to promote and/or advertise the upcoming concert by The Band at the Orleans on March 8 and 9, 2013. The photograph was posted on The Orleans' website at <http://www.orleanscasino.com/whats-new/events/marshall-tucker-band-mar-8-9> *See* The Orleans Website (last accessed March 6, 2013), attached hereto as **Exhibit 20**.

42. Upon information and belief, The Orleans used Hanna's photograph identified as **Exhibit 1** to promote The Band's performance by using the photograph in a promotional poster, evidenced by **Exhibit 21**, attached hereto.

43. Upon information and belief, as early as October 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Grand Slam Events, d/b/a Jupiter Seafood Festival ("Grand Slam"). Grand Slam published the photograph of The Band and owned by Hanna, without her permission

or authorization. Grand Slam is using Hanna's photograph in order to promote and/or advertise The Band's concert at the Jupiter Seafood Festival in Jupiter, Florida on April 7, 2013. The photograph was posted on Grand Slam's website at <http://www.jupiterseafoodfestival.net/> and remains available for public viewing to date. *See* Grand Slam Website (last accessed May 13, 2013), attached hereto as **Exhibit 22**.

44. On or about November 8, 2012, Gray, the Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Media General Communications Holdings, LLC, which owns and operates WSPA.com, News Channel 7, a news and entertainment network operating in Spartanburg, South Carolina. The photograph owned by Hanna was used to advertise The Band's fundraising efforts to aid Hurricane Sandy Victims and is accessible at <http://www.wspa.com/story/21508639/marshall-tucker-band-collects-supplies-thursday-for-sandy-victims>. Defendants published the photograph to WSPA.com without Hanna's permission or authorization. *See* WSPA.com (last accessed May 20, 2013), attached hereto as **Exhibit 23**.

45. On or about November 9, 2012, Gray, the Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity which owns and operates TheNashvilleBridge.com, a website blog regarding Nashville news and entertainment. The photograph owned by Hanna was used to advertise The Band's Tour to Aid Hurricane Sandy Victims and is accessible at <http://thenashvillebridge.com/page/3/>. Defendants published the photograph to TheNashvilleBridge.com without her permission or authorization. *See* TheNashvilleBridge.com (last accessed March 6, 2013), attached hereto as **Exhibit 24**.

46. On or about November 23, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to New Jersey Online, LLC which owns and operates NJ.com, a website promoting The Band's performance at the Levoy Theater in Millville, New Jersey. *See* NJ.com website at http://www.nj.com/indulge/index.ssf/2012/11/marshall_tucker_band_to_perfor.html (last accessed May 13, 2013). Defendants published Hanna's photograph without her permission or authorization. The photograph remains available for public viewing to date. *See* NJ.com website, attached hereto as **Exhibit 25**.

47. On or about December 18, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute, transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to Digital First Media, P.A., the entity owning MontgomeryMedia.com, an online news, entertainment, and information source, providing local community information, news, updates and entertainment to area residents in Montgomery County and Bucks County and the Roxborough area of Philadelphia, Pennsylvania. MontgomeryMedia.com later published an article entitled "Quintessential Southern rockers return to ST94" and published a copyrighted photograph owned by Hanna to publicize The Band, without Hanna's permission or authorization. *See* <http://montgomerynews.com/articles/2012/12/18/entertainment/doc50d0a3812deb4047232673.txt> (last accessed May 13, 2013), attached hereto as **Exhibit 26**. This article and Hanna's photograph is still available for viewing today.

48. On or around December 20, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Clarity Digital Group, LLC, d/b/a Examiner.com, a news, entertainment, and blog website promoting musicians, concerts, and events, in order to promote Gray's interview about their

show at B.B. King Blues Club. See examiner.com website at <http://www.examiner.com/article/marshall-tucker-band-s-doug-gray-talks-about-their-show-at-b-b-king-blues-club> (last accessed May 13, 2013). Defendants published the photograph used by examiner.com and owned by Hanna without her express permission or authorization. The photograph remains available for public viewing to date. See Examiner.com website, attached hereto as **Exhibit 27**.

49. On or around December 27, 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to the entity which owns pottsmmerc.com, a website promoting events in Pottstown, Pennsylvania and the Tri County area. Pottsmmerc.com used the photograph to promote The Band's concert in Sellersville, Pennsylvania. See <http://www.pottsmmerc.com/article/20121227/ENTERTAINMENT04/121229564/the-marshall-tucker-band-rocks-the-sellersville-theatre> (last accessed May 1, 2013). Defendants published the photograph used by pottsmmerc.com and owned by Hanna without Hanna's permission or authorization. The photograph remains available for public viewing to date. See pottsmmerc.com website attached hereto as **Exhibit 28**.

50. As early as January 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to CBS Local Media, a division of CBS Radio, Inc., which owns and operates X107.5 Las Vegas to use in promoting The Band's concert at the Vinyl Music Hall in Pensacola, Florida. See <http://events.x1075lasvegas.cbslocal.com/pensacola/events/marshall-tucker-band-timberhawk-/E0-001-052845784-4> (last accessed May 13, 2013). Upon information and belief, Gray, The Band, Rainey, Ramblin Records, and/or Absolute made a substantial profit from X107.5 Las Vegas' promotion of the Band on its website and from concert sales from X107.5 Las Vegas.

The photograph remains available for public viewing to date. *See* X1075 Website, attached hereto as **Exhibit 29**.

51. As early as January 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Defendants Florence, Florence County, and/or the joint venture owned by Florence and Florence County. The photograph was used by Defendants to promote The Band's concert at the Florence Civic Center, a concert venue located in Florence, South Carolina. *See* Florence Civic Center Website at <http://www.florenceciviccenter.com/fcc/detailinfo.asp?intProdID=1034> (last accessed March 6, 2013) Defendants published Hanna's photograph without her permission or authorization. The photograph remains available for public viewing to date. *See* FlorenceCivicCenter.com Website, attached hereto as **Exhibit 30**.

52. In or around January 2013, Defendant Florence Civic Center used at least one of the photographs in a promotional poster, a photograph of which is attached hereto as **Exhibit 31**. Upon information and belief, all Defendants profited from the Florence Civic Center's use of the photographs owned by Hanna to promote and sell concert tickets for the show.

53. On or about January 3, 2013, The Herald-Tribune published Hanna's photograph identified as **Exhibit 1** without her permission or authorization. The photograph was posted by The Herald-Tribune on their websites at <http://www.ticketsarasota.com/2013-01-03/section/nightlife/marshall-tucker-band-chugs-along/> as well as <http://www.heraldtribune.com/article/20130103/ARCHIVES/301031000?p=1&tc=pg> which remain available for public viewing to date. *See* Ticket Sarasota and Herald Tribune websites (last accessed May 13, 2013), attached hereto as **Exhibits 32 and 33**. The photograph was later used in an article entitled "Marshall Tucker Band chugs along," and was written by Gerry Galipault on behalf of the

Herald-Tribune. Upon information and belief, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold the copyrighted photograph to The Herald-Tribune for use on ticketsarasota.com and heraldtribune.com.

54. In the “Marshall Tucker Band chugs along” article, writer Galipault stated: “BTW: The photo was provided by the band’s management; they emailed it to me without giving the proper photog [sic] credit. I have added Angela’s name to the outline.” See **Exhibit 32** (dated January 14, 2013 at 1:16pm). This posting was made in response to Ms. Harriet C. Herndon’s earlier comments:

Wonderful picture of the Marshall Tucker Band. However, you failed to give credit to the professional photographer who made this picture. It is protected by copyright so i [sic] would suggest you contact me right away.

Id. (dated January 9, 2013 at 12:55pm).

Mr. Shaw, this picture was made by Angela Hanna of Angela Hanna Photography. She is supposed to have her name on this photo since she owns the copyright. It was distributed by someone with the Marshall Tucker Band. You might have picked it up from an AP distribution but you should know, since you are a journalist, that there is a photographer who actually made the picture and in this case, she is a professional photographer.

Id. (dated January 13, 2013 at 8:32pm).

55. On or about January 21, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna’s photograph identified as **Exhibit 1** to Community Newspaper Holdings, Inc., an entity owning and operating *The Moultrie Observer*, a daily newspaper published in Moultrie, Georgia. The copyrighted photograph was used by *The Moultrie Observer*’s online website in order to promote The Band’s upcoming performance at the Second Annual Dogwood Festival, set to take place April 21, 2013 in Moultrie. See Moultrieobserver.com Website at <http://moultrieobserver.com/local/x1303525452/Marshall-Tucker-Band-to-headline-Dogwood-Music-Festival> (last accessed May 13, 2013). Defendants

published Hanna's photograph without her permission or authorization. The photograph remains available for public viewing to date. *See* MoultrieObserver.com Website, attached hereto as **Exhibit 34**.

56. On or about January 23, 2013, Hanna communicated with Defendant Gray, The Band, Rainey, Absolute, and Ramblin Records by speaking to Ryan with Ron Rainey Management and Doug Gray. She requested that Defendants cease and desist from using her copyrighted photographs. Defendants ignored Plaintiff's communication. After January 23, 2013, Defendants continued to publish, use, transfer, distribute, and/or sell photographs owned by Hanna without her authorization or consent.

57. On or about January 23, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to the Wilmington Star News, an entity owning StarNewsOnline.com, an entertainment news and blog website. *See* wae.blogs.starnewsonline.com website at <http://wae.blogs.starnews.com/30894/more-with-marshall-tucker-band%E2%80%99s-doug-gray-part-1/> (last accessed May 13, 2013). Defendants published the photograph used by StarNewsOnline.com and owned by Hanna without her permission or authorization. The photograph remains available for public viewing to date. *See* Star news Online Website, attached hereto as **Exhibit 35**.

58. As early as February 2013, Hanna is informed and believes that Defendant Florence Civic Center began using one or more of her copyrighted photographs for uses in promoting, advertising, marketing, and or selling tickets for the Band's performance at the Civic Center in April, 2013. Use of Hanna's copyrighted photographs for these purposes has not been with Hanna's permission or consent.

59. On or about February 5, 2013, Gray, The Band, Rainey, Ramblin Records, Absolute, and/or Greater Greer Chamber of Commerce transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Greer Today, an entity owning and operating GreerToday.com, a website promoting events and entertainment in Greer, South Carolina. *See* GreerToday Website at <http://greertoday.com/greer-sc/marshall-tucker-band-headlines-family-fest-entertainment/2013/02/05/> (last accessed May 13, 2013). Defendants published Hanna's photograph without her permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* Greer Today Website, attached hereto as **Exhibit 36**.

60. On or about February 7, 2013, Hanna filed for copyright protection under the U.S. Copyright Act by electronically filing copyright registration claims using the Electronic Copyright Office (ECO) System. **Exhibits 1 and 2** were successfully uploaded for service on February 7, 2013. The copyrighted photographs are identified as 1-889088641.

61. Defendants continued to infringe Plaintiff's registered copyright after the effective date of protection under the Copyright Act, and upon information and belief, Defendants are continuing to violate Plaintiff's registered copyright.

62. On or about February 11, 2013, Defendant Absolute published Hanna's photograph identified as **Exhibit 1** without her permission or authorization. The copyrighted photograph was posted on Absolute's website at <http://www.mynewsletterbuilder.com/email/newsletter/1411634899/> and remains available for public viewing to date. *See* Absolute Webpage re Switzerland Concert (last accessed May 13, 2013), attached hereto as **Exhibit 37**.

63. On or about February 11, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to MusicNewsNashville.com, a website promoting The Band's performance at the 2013

International Country Music Festival, held at the Schützenhaus Albisgütli Event Center in Switzerland. See Music News Nashville Website at <http://www.musicnewsnashville.com/the-marshall-tucker-band-set-for-swiss-concert-debut> (last accessed May 1, 2013). Defendants published Hanna's copyrighted photograph without her permission or authorization. The copyrighted photograph remains available for public viewing to date. See Music News Nashville Website, attached hereto as **Exhibit 38**.

64. Upon information and belief, on or about February 12, 2013, Defendants Florence, Florence County, and/or the joint venture owning and operating the Florence Civic Center sent an email blast to its subscribers of The Band's performance using Hanna's photograph identified as **Exhibit 1**. See Florence Civic Center Email Blast attached hereto as **Exhibit 39**. Florence Civic Center did not have Hanna's consent or authorization to publish the photograph.

65. On or about February 12, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Community Newspaper Holdings, Inc., an entity owning and operating *The Tifton Gazette*, a newspaper operating in Tifton, Georgia. The copyrighted photograph was published, transferred, distributed, and/or sold to *The Tifton Gazette* by Defendants in order to announce and/or publicize The Band's upcoming appearance and concert at the Moultrie Dogwood Music Festival, scheduled to occur on April 27, 2013. Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. See <http://tiftongazette.com/x2056613299/Marshall-Tucker-Band-to-headline-festival-in-Moultrie> (last accessed May 1, 2013), attached hereto as **Exhibit 40**.

66. On or about February 12, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Pretty Cool Huh, LLC, d/b/a The Country Site published the copyrighted photograph of The Band without Hanna's permission or authorization. The copyrighted photograph was posted on <http://thecountrysite.com/2013/02/12/the-marshall-tucker-band-set-to-make-live-concert-debut-in-switzerland/> and remains available for public viewing to date. *See* Website Page (last accessed May 1, 2013) attached hereto as **Exhibit 41**.

67. In or around February 12, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity which owns and operates CountryMusicTattleTale.com, a music and entertainment news website. CountryMusicTattleTale.com used the copyrighted photographs to advertise The Band's performance in Switzerland at the International Country Music Festival. *See* CountryMusicTattleTale.com Website attached hereto as **Exhibits 42** (last accessed March 25, 2013). Defendants published the copyrighted photograph to CountryMusicTattleTale.com without Hanna's permission or authorization.

68. On or about February 14, 2013, Plaintiff, by and through her undersigned attorneys, transmitted a letter to Defendants Gray and The Band, demanding that they immediately cease any use of the copyrighted photographs, including any other photographs owned by Hanna, and that Defendants provide an accounting of all gross receipts related to any sales or use of Hanna's photographs, including the copyrighted photographs, as well as a complete list of all known uses of these photographs. *See* Cease and Desist Letter attached hereto as **Exhibit 43**.

69. As early as February of 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Penn's Peak, LLC, d/b/a Penn's Peak, an entertainment venue in Lehigh Valley and Pocono Mountains, Pennsylvania. The copyrighted photograph was published, transferred, distributed, and/or sold to PennsPeak.com by Defendants to announce and/or publicize The Band's upcoming concert on March 16, 2013. Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. See <http://www.pennspeak.com/events/2013-03-16-marshall-tucker-band> (last accessed May 1, 2013), attached hereto as **Exhibit 44**.

70. As early as March 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning Apple Mountain's East Coast Motorcycle Rally. The copyrighted photograph was transferred, distributed, and/or sold to Apple Mountain by Defendants to announce and/or publicize The Band's performance during the Rally August 7 – 11, 2013. See Apple Mountain's East Coast Motorcycle Rally at <http://www.eastcoaststurgis.com/index.html> (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. See Apple Mountain's East Coast Rally Website, attached hereto as **Exhibit 45**.

71. As early as March 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning BellyUp.com, a live music venue and concert hall located in Solano Beach, California. The copyrighted photograph was transferred, distributed, and/or sold to BellyUp.com by Defendants to announce and/or publicize The Band's concert on June 24, 2013. See Belly Up

Website at <http://www.bellyup.com/event/the-marshall-tucker-band/> (last accessed May 1, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* Belly Up Website, attached hereto as **Exhibit 46**.

72. Upon information and belief, Gray, The Band, Rainey, Ramblin Records, and/or Absolute garnered considerable profits from the use, transfer, and/or distribution of Hanna's copyrighted photographs to BellyUp.com, considering that as of April 2013 the concert was sold out. *See id.*

73. As early as March 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to *Pensacola News Journal*, owned by Gannett Company, a media and marketing solutions company. *Pensacola News Journal* began selling the copyrighted photograph for prices ranging from \$8.95 to \$24.95 each. *See* Pensacola News Journal at http://pnj.mycapture.com/mycapture/enlarge_remote.asp?source=&remoteimageid=7603098 (last accessed May 1, 2013), attached hereto as **Exhibit 47**. Upon information and belief, Defendants earning sizable profits from the sale of Hanna's copyrighted photograph(s) by *Pensacola News Journal*. Photographs owned by Hanna are still available for purchase through the *Pensacola News Journal*.

74. As early as March 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity that owns the Lincoln Theater, an entertainment venue located in Raleigh, North Carolina. Lincoln Theatre used the copyrighted photograph to promote The Band's upcoming performance in Raleigh on April 19, 2013. *See* Lincoln Theater Schedule at <http://www.lincolnthetre.com/mobileschedule.html> (last accessed May 1, 2013). Defendants

published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* Lincoln Theatre Website, attached hereto as **Exhibit 48**.

75. On March 5, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Hearst Communications, Inc., an entity owning and operating CTPost.com, a news and entertainment website promoting artists, musicians, bands, and upcoming live performances. The copyrighted photograph was published, transferred, distributed, and/or sold to ctpost.com by Defendants in order to announce and/or publicize The Band's concert at The Ridgefield Playhouse in Ridgefield, Connecticut. *See* CTPost.com Website at <http://www.ctpost.com/news/article/See-you-backstage-at-Marshall-Tucker-show-4329903.php> (last accessed May 1, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* CTPost.com Website, attached hereto as **Exhibit 49**.

76. On March 6, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning and operating *The Las Vegas Informer*, an online and print newspaper promoting news and events in Las Vegas, Nevada. The copyrighted photograph was published, transferred, distributed, and/or sold to LasVegasInformer.com by Defendants in order to announce and/or publicize The Band's appearance as Grand Marshals T at the NASCAR-sponsored Nationwide Series Sam's Town 300 race ("NASCAR Race"). *See* *Las Vegas Informer* Website at <http://lasvegas.informermg.com/2013/03/06/the-marshall-tucker-band-to-announce-drivers-start-your-engines-at-las-vegas-motor-speedway-this-saturday/> (last accessed May 13, 2013).

Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See Las Vegas Informer* website, attached hereto as **Exhibit 50**.

77. On or about March 7, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to MNN Enterprises, LLC, an entity owning and operating MusicNewsNashville.com, a music entertainment news website promoting various musicians, bands, and upcoming concerts. The copyrighted photograph was transferred, distributed, and/or sold to musicnewsnashville.com by Defendants in order to announce and/or publicize The Band's upcoming appearance at the NASCAR Race. *See* MusicNewsNashville.com at http://www.musicnewsnashville.com/the-marshall-tucker-band-are-nascar-grand-marshals?utm_source=rss&utm_medium=rss&utm_campaign=the-marshall-tucker-band-are-nascar-grand-marshals (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* MusicNewsNashville.com Website, attached hereto as **Exhibit 51**.

78. On or about March 8, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold the Hanna's photograph identified as **Exhibit 2** to Rouge Digital, LLC, an entity owning and operating ArtistsDirect.com, a music entertainment news website promoting various musicians, bands, and upcoming concerts. The copyrighted photograph was transferred, distributed, and/or sold to artistdirect.com by Defendants in order to announce and/or publicize The Band's upcoming appearance at the NASCAR race. *See* artistdirect.com Website at <http://www.artistdirect.com/entertainment-news/article/marshall-tucker-band-to-grand-marshal-nascar-race-tomorrow/10410727> (last accessed May 1, 2013).

Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* artistdirect.com Website, attached hereto as **Exhibit 52**.

79. On or about March 8, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or Hanna's photograph identified as **Exhibit 1** to the entity owning and operating music.broadwayworld.com, a music entertainment news website promoting various musicians, bands, and upcoming concerts. The copyrighted photograph was transferred, distributed, and/or sold to artistdirect.com by Defendants in order to announce and/or publicize The Band's upcoming concert at Las Vegas, Nevada's Orleans Showroom on March 8 and March 9, 2013. *See* musicworld.com Website at <http://music.broadwayworld.com/article/Marshall-Tucker-Band-to-Return-to-Las-Vegas-Orleans-Showroom-38-9-20130307> (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* musicworld.com Website, attached hereto as **Exhibit 53**.

80. On or about March 8, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to Town Square Media, LLC, the entity owning and operating ultimateclassicrock.com, a music entertainment news website promoting various musicians, bands, and upcoming concerts. The copyrighted photograph was transferred, distributed, and/or sold to ultimateclassicrock.com by Defendants in order to announce and/or The Band's upcoming appearance as Grand Marshall at the NASCAR race. *See* ultimateclassicrock.com Website at <http://ultimateclassicrock.com/marshall-tucker-band-nascar-race/> (last accessed May 13, 2013). Defendants published the copyrighted photograph owned by Hanna without her permission or authorization. The

copyrighted photograph remains available for public viewing to date. *See* ultimateclassicrock.com Website, attached hereto as **Exhibit 54**.

81. On or about March 8, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to RadioIO Music, a radio website promoting artists and entertainers (radioio.com). RadioIO used the copyrighted photograph to advertise the Band's appearance the NASCAR race. *See* RadioIO Website at <http://www.radioio.com/2013/03/marshall-tucker-band-to-kick-off-nascar-race-before-las-vegas-show/> (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* RadioIO Website, attached hereto as **Exhibit 55**.

82. On or before March 8, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 3** to Tony Bullard, a world famous guitarist who currently plays for The Blue Lords, a rock band primarily doing business in the State of Virginia and who has performed at a variety of venues across the United States, including the Rock Legends Cruise.

83. Upon information and belief, Defendants transmitted Hanna's photograph identified as **Exhibit 3** to Bullard so that he could upload it to his personal Facebook account to promote The Band and Gray for a place in the Rock and Roll Hall of Fame. *See* **Exhibit 56**. Bullard indicated on Facebook that if his fans agreed that The Band and/or Gray should be inducted into the Rock and Roll Hall of Fame they should "share" the photograph. Upon information and belief, more than fifty of Bullard's Facebook friends and/or fans shared the photograph on their personal Facebook accounts. Upon information and belief, Gray, The Band,

Rainey, Ramblin Records, and/or Absolute profited from Bullard's use of the photograph of Gray.

84. On or about March 10, 2013, Hanna filed for copyright protection for five photographs taken by Hanna, including head shots or close-up photographs of Gray, under the U.S. Copyright Act by electronically filing copyright registration claims using the Electronic Copyright Office (ECO) System. *See* **Exhibits 3, 4, 5, 6, and 7**. The files were successfully uploaded for service on March 10, 2013. The Copyrighted photographs are identified as 1-903543141.

85. Defendants continued to infringe Plaintiff's registered copyright after March 10, 2013, the effective date of protection under the Copyright Act, and upon information and belief, Defendants are continuing to violate Plaintiff's registered copyright.

86. Upon information and belief, Gray used, distributed, transferred, and/or sold Hanna's copyrighted photograph of Gray identified as **Exhibit 3** which was taken during The Band's test shoot in or around September 2012 on his personal Facebook page.

87. On or about March 12, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 2** to Valley Cultural Center, a non-profit serving the greater San Fernando Valley in promoting the performing and visual arts (ValleyCultural.org). Valley Cultural Center used the copyrighted photograph to advertise a free concert by The Band scheduled for June 23, 2013. *See* valleycultural.org Website at <http://valleycultural.org/the-marshall-tucker-band/> (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* valleycultural.org Website, attached hereto as **Exhibit 57**.

88. On or about March 13, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Spartus News, the entity owning and operating *The Sparta Independent*, an online news, entertainment, and blog source. *The Sparta Independent* used the copyrighted photographs to promote The Band's upcoming concert with The Charlie Daniels Band at the Rock, Ribs and Ridges Festival in Vernon, New Jersey. See <http://spartaindependent.com/apps/pbcs.dll/article?AID=/20130313/ENTERTAINMENT/130319941/Marshall-Tucker-Band-joins-Charlie-Dani> (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. See Sparta Independent Website, attached hereto as **Exhibit 58**.

89. On or about March 13, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning and operating TheDigitalJournal.com, an online news, entertainment, and blog. The Digital Journal used the copyrighted photograph to promote an interview with Doug Gray. See <http://digitaljournal.com/article/345623> (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. See The Digital Journal Website, attached hereto as **Exhibit 59**.

90. On or about March 13, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning and operating News Hour 24, an online news and entertainment blog. News Hour 24 used the Copyrighted photographs to promote The Digital Journal interview with Doug Gray. See <http://www.newshour24.com/world/74vqkq427/Interview-Doug-Gray-From-Marshall->

[Tucker-Band-Talks-Touring.htm](#) (last accessed March 22, 2013). Defendants published the copyrighted photograph to News Hour 24 without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* News Hour 24 Website, attached hereto as **Exhibit 60**.

91. On or about March 13, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Clarity Digital Group, LLC, d/b/a Examiner.com, an online news, entertainment, and blog source. Examiner.com used the copyrighted photograph to promote the Band's upcoming concert at a concert venue in Long Island, New York. *See* <http://www.examiner.com/review/concert-review-marshall-tucker-band-performs-at-the-paramount-long-island> (last accessed May 13, 2013). Defendants published the copyrighted photograph to Examiner.com without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *See* Examiner.com, attached hereto as **Exhibit 61**.

92. On or about March 15, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity which owns and operates The Paramount concert venue in Long Island, New York. The Paramount used the copyrighted photograph to advertise The Band's upcoming concert at the Paramount on March 15, 2013. *See* The Paramount Facebook usages attached hereto as **Exhibits 62, 63, and 64**. Defendants published the copyrighted photograph to The Paramount without Hanna's permission or authorization. Upon information and belief, Gray, The Band, Rainey, Ramblin Records, and/or Absolute garnered considerable profits from the use, transfer, and/or distribution of Hanna's copyrighted photographs to The Paramount because the concert sold out. *See id.*

93. In or around mid-March of 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to Defendant Town of Fort Mill ("Fort Mill"), which used one or more of Hanna's copyrighted photograph to promote The Band's upcoming performance at the South Carolina Strawberry Festival in Fort Mill, South Carolina on or about May 3 and May 4, 2013. Defendant published the copyrighted photograph without Hanna's express permission or authorization. *See* <http://www.scstrawberryfestival.com/news/scstrawberryfestivalreleases2013strawberryjamlineup> (last accessed May 7, 2013), attached hereto as **Exhibit 65**.

94. In or around mid-March of 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity which owns and operates CountryMusicTattleTale.com, a music and entertainment news website. CountryMusicTattleTale.com used the copyrighted photograph to advertise The Band's concert on the Rock Legends Cruise. *See* CountryMusicTattleTale.com Website attached hereto as **Exhibits 66** (last accessed March 25, 2013). Defendants published the copyrighted photograph to CountryMusicTattleTale.com without Hanna's permission or authorization.

95. On or before March 27, 2013, Defendant Florence Civic Center used Hanna's photograph identified as **Exhibit 1** in a promotional television and internet commercial to promote The Band's upcoming performance on April 26, 2013 with The Charlie Daniels Band. The video was available on youtube.com, a public entertainment website. *See* <http://www.youtube.com/watch?v=y4OfVTaW3fo> (last accessed May 13, 2013). Upon information and belief, Defendant Florence Civic Center's use of this promotional video yielded profits to all of the Defendants to this action.

96. As early as April 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the Alameda County Fair Association in order to publicize The Band's upcoming concert on June 21, 2013. See Alameda County Fair Website at <http://www.alamedacountyfair.com/2013fair/concerts/concerts.php?row=0> (last accessed May 13, 2013). Defendants published the copyrighted photograph without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. See Alameda County Fair Website, attached hereto as **Exhibit 67**.

97. As early as April 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the Greater Greer Chamber of Commerce ("Greer"), a non-profit doing business in Greer, South Carolina, which used the copyrighted photograph to promote The Band's upcoming concert at the Nationwide Insurance Garfield Main Stage during the 2013 Village Hospital Greer Family Fest. See <http://www.greerchamber.com/entertainment> (last accessed May 13, 2013). Defendants published the copyrighted photograph to the Greer Chamber of Commerce website without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. See Greer Chamber of Commerce Website, attached hereto as **Exhibit 68**. Upon information and belief, Defendant Greer profited from its use of the copyrighted photographs.

98. As early as April of 2013, and potentially earlier, Gray, The Band, Rainey, Ramblin Records, Absolute and/or Florence Civic Center transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning and operating RockRibsandRidges.com, a website created and maintained to promote the Fourth Annual Rock, Ribs, and Ridges Festival at Hidden Valley Club in Vernon, New Jersey. The Band was hired by

the entity owning the Rock, Ribs, and Ridges Festival to perform on June 9, 2013. The copyrighted photograph was published to RockRibsandRidges.com in order to promote The Band's performance during the festival. The copyrighted photograph was used by RockRibsandRidges.com on its homepage (www.rockribsandridges.com) and furthermore on its Music subpage (<http://www.rockribsandridges.com/music.html>) (both websites last accessed May 14, 2013), attached hereto as **Exhibits 69 and 70**. Defendants published the copyrighted photograph to the RockRibsandRidges.com without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *Id.*

99. On or about April 1, 2013, Gray, The Band, Rainey, Ramblin Records, Absolute and/or Florence Civic Center transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning and operating *SHE Magazine*, an entertainment, news, and informational magazine directed to women in South Carolina, doing business in Florence, South Carolina. The copyrighted photograph was published to *SHE Magazine* in order to promote The Band's upcoming performance on April 26, 2013 at the Florence Civic Center alongside The Charlie Daniels Band. *See SHE Magazine* (April 2013) available online at <http://edition.pagesuite-professional.co.uk/Launch.aspx?EID=55eb84b3-ab14-4372-be67-4b27a7c74d87>, page 129 (last accessed May 13, 2013), attached hereto as **Exhibit 71**. Defendants published the copyrighted photograph to the *SHE Magazine* for publication without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *Id.*

100. On or about April 10, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the The Altar Bar, a concert venue located in Pittsburg, Pennsylvania to use to promote the Band's

upcoming concert on May 17, 2013. *See* The Altar Bar Facebook Page (last accessed April 10, 2013), attached hereto as **Exhibit 72**. Defendants published the copyrighted photograph to the The Altar Bar website without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *Id.*

101. On or about April 18, 2013, Defendant Florence Civic Center published Hanna's photograph identified as **Exhibit 1** on its Twitter page to announce The Band's April 26, 2013 concert with The Charlie Daniels Band. *See* Florence Civic Center Twitter (last accessed April 18, 2013), attached hereto as **Exhibit 73**.

102. On or about April 22, 2013, Defendant Florence Civic Center published **Exhibits 1 and 2** on its Facebook page as its cover photo and as uploaded photographs on its news feed in order to announce The Band's upcoming performance with The Charlie Daniels Band on April 26, 2013. *See* Florence Civic Center Facebook (last accessed April 22, 2013), attached hereto as **Exhibits 74, 75, and 76**.

103. On or about April 30, 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to The Spartanburg Herald-Journal, Inc., the entity which owns and/or operates *The Spartanburg Herald-Journal*, a newspaper reporting news and events in Spartanburg, South Carolina, and which owns and/or operates GoUpstate.com. *The Spartanburg Herald-Journal*, by and through its website GoUpstate.com, used the copyrighted photograph identified as **Exhibit 1** to promote The Band's concert at the Nationwide Insurance Garfield Main Stage during the 2013 Village Hospital Greer Family Fest. *See* <http://www.goupstate.com/article/20130430/ENT/130439979> (last accessed May 14, 2013). Defendants published the copyrighted photograph to *The Spartanburg Herald-Journal* without Hanna's permission or authorization. The copyrighted

photograph remains available for public viewing to date. *See* GoUpstate.com Website, attached hereto as **Exhibit 77**. Upon information and belief, Defendant Greer profited from its use of the copyrighted photographs.

104. Upon information and belief, on or about April 24, 2013, Defendant Florence Civic Center sent an email blast to its subscribers to notify them of The Band's performance. *See* Florence Civic Center Email Blast attached hereto as **Exhibit 78**. The email blast sent by Defendant Florence Civic Center contained Hanna's photograph identified as **Exhibit 1** without her express consent or permission.

105. As early as April or May of 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning and operating StarTickets.com, a website promoting and selling tickets for concerts, sports, fairs, festivals, theater and arts throughout the United States. Defendants transferred Hanna's copyrighted photograph to the entity owning and operating StarTickets.com in order to promote The Band's concert on June 29, 2013 at FireKeepers Casino and Hotel in Battle Creek, Michigan. *See* StarTickets.com (last accessed May 20, 2013), attached hereto as **Exhibit 79**. Defendants published the copyrighted photograph to the StarTickets.com without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *Id.*

106. As early as April or May of 2013, Gray, The Band, Rainey, Ramblin Records, and/or Absolute transferred, distributed, and/or sold Hanna's photograph identified as **Exhibit 1** to the entity owning and operating the FireKeepers Casino, located in Battle Creek, Michigan. The photograph was used by FireKeepers Casino on their official website to promote and sell concert tickets to The Band's concert on June 29, 2013. *See* FireKeepersCasino.com (last

accessed May 20, 2013), <http://www.firekeeperscasino.com/default/index.cfm/entertainment/event-center/>, attached hereto as **Exhibit 80**. Defendants published the copyrighted photograph to the FireKeepersCasino.com without Hanna's permission or authorization. The copyrighted photograph remains available for public viewing to date. *Id.*

107. Upon information and belief, sometime since September of 2012, Chris Hicks, a member of The Band, has on at least two separate occasions violated Hanna's copyrights by uploading the photographs identified as **Exhibits 1 and 2** to this Complaint on his personal account on Songbird.me, a music discovery service which helps users of the website identify music interests and related contents. Chris Hick's Songbird.me account can be accessed at <http://www.songbird.me/#artists/chris-hicks-4fd7c833f3f30501b3000001> (last accessed May 20, 2013), and attached hereto as **Exhibit 81**.

108. Since September of 2012, Gray, The Band, Rainey, Ramblin Records, and/or Absolute, have sold, transferred, distributed, used, and/or published the copyrighted photographs, owned by Hanna on more than eighty occasions, proliferating Hanna's photographs to such an extent that Hanna's ability to control publication of her copyrighted photographs has, at present, become impossible.

109. Defendants continued to wrongfully sell, transfer, distribute, use, and/or publish photographs owned by Hanna after Hanna registered her photographs with the Federal copyrighted Office.

110. Defendants continued to wrongfully sell, transfer, distribute, use, and/or publish copyrighted photographs after Hanna informed Defendants that their use of the copyrighted photographs was in direct violation of her copyrights.

111. Upon information and belief, Defendants have profited financially from the wrongful use, transfer, distribution, and/or sale of Hanna's Copyrighted photographs.

FOR A FIRST CAUSE OF ACTION as to all Defendants
(Copyright Infringement, Violation of U.S. Copyright Act of 1976, 15 U.S.C. § 501, *et seq.*)

112. The allegations contained in paragraphs one (1) through one hundred and four (104) are re-alleged as if repeated herein verbatim.

113. Plaintiff is the copyright owner of exclusive rights under United States Copyright Act of 1976 with respect to two photographs, including but not limited to the copyrighted photographs identified as **Exhibits 1 through 7**, attached hereto, each of which is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights.

114. Plaintiff is informed and believes that Defendants, without the permission or consent of Plaintiff, have used, and continue to use, an online media distribution system to illegally download the copyrighted photographs, distribute the copyrighted photographs to the public, and/or to publish the copyrighted photographs to others, including the multitude of vendors, media outlets, concert venues, and the public. In doing so, Defendants have violated Plaintiff's exclusive rights of reproduction and distribution.

115. Defendants' actions constitute infringement of Plaintiff's copyrights and exclusive rights under copyright. **Exhibits 12 through 81** attached hereto evidence Defendants' wrongful misappropriations and violations of Plaintiff's copyright from May 7, 2013 to present. Upon information and belief there are countless other violations that have yet to be determined.

116. Plaintiff is informed and believes that the foregoing acts of infringement were willful and intentional, in disregard of and with indifference to the rights of Plaintiff and her copyrights, despite various warnings and demands to cease and desist to Defendants.

117. As a result of Defendants' infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. § 504(c). Plaintiff is further entitled to her attorney's fees and costs pursuant to 17 U.S.C. § 505.

118. The conduct of Defendants is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot be fully compensated or measured in monetary damages. Plaintiff has no adequate remedy at law for redress of these injuries. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiff is entitled to injunctive relief prohibiting Defendants from further infringing Plaintiff's copyrights, and ordering Defendants to destroy all copies of the copyrighted photographs made in violation of Plaintiff's exclusive rights.

FOR A SECOND CAUSE OF ACTION as to Defendants Doug Gray and
The Marshall Tucker Band, Inc.
(Breach of Contract)

119. The allegations contained in paragraphs one (1) through one hundred and four (104) are re-alleged as if repeated herein verbatim.

120. Plaintiff had a contract with Gray and The Band as evidenced by the Invoice attached hereto as **Exhibit 8**.

121. Defendants Gray and The Band wrongfully took, published to the public, and distributed Hanna's photographs, which were subject to the terms of the parties' contract, thereby breaching same.

122. Defendants' breach of the parties' contract has directly caused Plaintiff actual and consequential damages.

123. As a result of Defendants' breach, Plaintiff is entitled to an Order awarding her actual damages, including lost profits, consequential damages, and for such other relief as is appropriate under these circumstances.

FOR A THIRD CAUSE OF ACTION as to all Defendants
(Conversion)

124. The allegations contained in paragraphs one (1) through one hundred and four (104) are re-alleged as if repeated herein verbatim.

125. In or around September 2012, and from September 2012 to present, Defendants improperly downloaded, transferred, sold, distributed, and/or published to the public Plaintiff's photographs including the copyrighted photographs referenced above.

126. Defendants have improperly retained photographs owned by Hanna.

127. Plaintiff has a legally protected interest in her photographs that Defendants have improperly retained and distributed to the public.

128. Defendants have converted Plaintiff's photographs for their own use and commercial gain at the expense of Plaintiff.

129. Defendants' actions were without Plaintiff's permission, authorization or consent.

130. As a result of Defendants' wrongful actions, Plaintiff is entitled to an Order awarding her actual damages, punitive damages, and for such other relief as is appropriate under these circumstances.

FOR A FOURTH CAUSE OF ACTION as Defendants Doug Gray, The Marshall Tucker Band, Inc., Marshall Tucker Entertainment, Inc. d/b/a Ramblin Records
(Constructive Trust)

131. The allegations contained in paragraphs one (1) through one hundred and four (104) are re-alleged as if repeated herein verbatim.

132. Plaintiff reposed special trust and confidence in Gray, The Band, Ron Rainey, Absolute Publicity, and Ramblin Records, so that these Defendants were bound to act in good faith, fair dealing, and in due regard for Plaintiff's interests.

133. In reliance that these Defendants would act in good faith, fair dealing and in due regard for Plaintiff's interest, Plaintiff took certain actions more fully described above, including but not limited to, sending a CD of the proof photographs to Gray on or about September 24, 2012, establishing a limited online gallery whereby Gray, The Band, Ramblin Records, Ron Rainey, and Absolute Publicity, their agents, employees, parent companies, and subsidiaries, could view, but not download, save, copy, transfer, distribute, sale, and/or publish to the public.

134. Through their behavior outlined above, Defendants breached the trust of the Plaintiff and their fiduciary duties to Plaintiff.

135. Defendants have been unjustly enriched by their breach of Plaintiff's trust.

136. As a result, Plaintiff is entitled to an Order from this Court imposing a constructive trust upon the profits earned by Defendants from the misappropriated photographs as assets in trust for the benefit of Plaintiff.

FOR A FIFTH CAUSE OF ACTION as to all Defendants
(Civil Conspiracy)

137. The allegations contained in paragraphs one (1) through one hundred and four (104) are re-alleged as if repeated herein verbatim.

138. Defendants conspired for the purpose of harming Plaintiff by manipulating Plaintiff into a contract for "test" or "proof" photographs under the guise of potentially licensing and/or buying the photographs resulting from that photo shoot, while knowing they were planning on wrongfully taking one or more of Plaintiff's photographs without purchase or

license, and wrongfully distributing, transferring, selling, or publishing the photos to other promoters, vendors, and/ or the public.

139. The actions of Defendants have caused Plaintiff special damages which are not compensable by the other claims in this action.

140. As a result of Defendants' conspiracy and resulting wrongful acts, Plaintiff is entitled to an Order awarding her special damages, and for such other relief as is appropriate under these circumstances.

FOR A SIXTH CAUSE OF ACTION as to Defendants Doug Gray, The Marshall Tucker Band, Inc., Marshall Tucker Entertainment d/b/a Ramblin' Records, Ron Rainey Management, Inc., and Absolute Publicity, Inc.
(Violation of the S.C. Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 *et seq.*)

141. The allegations contained in paragraphs one (1) through one hundred and four (104) are re-alleged as if repeated herein verbatim.

142. Defendants intended to take advantage of and harm Plaintiff by inducing Plaintiff to furnish Defendants with "test" or "proof" photographs.

143. Defendants knew they intended to use one or more of Plaintiff's photographs without a purchase or license agreement at the time they caused her to provide the photo proofs for personal gain.

144. Defendants' conduct constitutes an unfair or deceptive trade practice.

145. Defendants' actions and conduct as herein alleged were such that the Defendants either knew or should have known that their actions or conduct have the effect, tendency, and capacity to deceive.

146. Defendants' wrongful acts and/or omissions have an impact on the public in that Defendants' conduct is capable of repetition.

147. Plaintiff has been damaged as a direct result of Defendants' unlawful actions or conduct.

148. Plaintiff is entitled to an Order awarding her actual damages, treble damages, prejudgment interest, and reasonable attorneys' fees and costs associated with this action pursuant to the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 *et seq.*

WHEREFORE, the Plaintiff prays for judgment against the Defendants as follows:

A. For an injunction against each Defendant preventing them from further infringing Plaintiff's copyrights;

B. For statutory damages for each infringement of each copyrighted photograph pursuant to 17 U.S.C. § 504;

C. For actual damages for each infringement of each copyrighted photograph pursuant to 17 U.S.C. § 504(b) and South Carolina law;

D. For those claims which can be remedied by a payment of damages, Plaintiff seeks recovery of her actual and consequential damages, punitive damages, special damages, trebled damages, and other exemplary damages in an amount justified by the evidence, and as provided for under South Carolina, which were sustained as a result of Defendants' wrongful acts or omissions;

E. For Plaintiff's costs in this action;

F. For Plaintiff's reasonable attorneys' fees incurred herein; and

G. For such other and further relief as this Court may deem just and proper.

Respectfully submitted:

s/ Lyndey Ritz Zwing

Lyndey Ritz Zwingelberg (Federal ID # 11506)

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May 21, 2013